

108TH CONGRESS
2D SESSION

S. 2786

To strengthen United States trade enforcement laws.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2004

Mr. BAYH introduced the following bill; which was read twice and referred to
the Committee on Finance

A BILL

To strengthen United States trade enforcement laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Get Tough on Trade
5 Act”.

6 **SEC. 2. IDENTIFICATION OF TRADE EXPANSION PRIOR-**
7 **ITIES.**

8 Section 310 of the Trade Act of 1974 is amended
9 to read as follows:

10 **“SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIOR-**
11 **ITIES.**

12 “(a) IDENTIFICATION.—

1 “(1) IDENTIFICATION AND REPORT.—Within 30
2 days after the submission in each of calendar year
3 2005 through 2009 of the report required by section
4 181(b), the Trade Representative shall—

5 “(A) review United States trade expansion
6 priorities;

7 “(B) identify priority foreign country prac-
8 tices, the elimination of which is likely to have
9 the most significant potential to increase
10 United States exports, either directly or
11 through the establishment of a beneficial prece-
12 dent; and

13 “(C) submit to the Committee on Finance
14 of the Senate and the Committee on Ways and
15 Means of the House of Representatives and
16 publish in the Federal Register a report on the
17 priority foreign country practices identified.

18 “(2) FACTORS.—In identifying priority foreign
19 country practices under paragraph (1), the Trade
20 Representative shall take into account all relevant
21 factors, including—

22 “(A) the major barriers and trade dis-
23 torting practices described in the National
24 Trade Estimate Report required under section
25 181(b);

1 “(B) the trade agreements to which a for-
2 eign country is a party and its compliance with
3 those agreements;

4 “(C) the medium- and long-term implica-
5 tions of foreign government procurement plans;
6 and

7 “(D) the international competitive position
8 and export potential of United States products
9 and services.

10 “(3) CONTENTS OF REPORT.—The Trade Rep-
11 resentative may include in the report, if appro-
12 priate—

13 “(A) a description of foreign country prac-
14 tices that may in the future warrant identifica-
15 tion as priority foreign country practices; and

16 “(B) a statement about other foreign coun-
17 try practices that were not identified because
18 they are already being addressed by provisions
19 of United States trade law, by existing bilateral
20 trade agreements, or as part of trade negotia-
21 tions with other countries and progress is being
22 made toward the elimination of such practices.

23 “(b) INITIATION OF CONSULTATIONS.—By no later
24 than the date that is 21 days after the date on which a
25 report is submitted to the appropriate congressional com-

1 mittees under subsection (a)(1), the Trade Representative
2 shall seek consultations with each foreign country identi-
3 fied in the report as engaging in priority foreign country
4 practices for the purpose of reaching a satisfactory resolu-
5 tion of such priority practices.

6 “(c) INITIATION OF INVESTIGATION.—If a satisfac-
7 tory resolution of priority foreign country practices has
8 not been reached under subsection (b) within 90 days after
9 the date on which a report is submitted to the appropriate
10 congressional committees under subsection (a)(1), the
11 Trade Representative shall initiate under section
12 302(b)(1) an investigation under this chapter with respect
13 to such priority foreign country practices.

14 “(d) AGREEMENTS FOR THE ELIMINATION OF BAR-
15 RIERS.—In the consultations with a foreign country that
16 the Trade Representative is required to request under sec-
17 tion 303(a) with respect to an investigation initiated by
18 reason of subsection (c), the Trade Representative shall
19 seek to negotiate an agreement that provides for the elimi-
20 nation of the practices that are the subject of the inves-
21 tigation as quickly as possible or, if elimination of the
22 practices is not feasible, an agreement that provides for
23 compensatory trade benefits.

24 “(e) REPORTS.—The Trade Representative shall in-
25 clude in the semiannual report required by section 309

1 a report on the status of any investigations initiated pur-
 2 suant to subsection (c) and, where appropriate, the extent
 3 to which such investigations have led to increased opportu-
 4 nities for the export of products and services of the United
 5 States.”.

6 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) AUTHORIZATION OF APPROPRIATIONS FOR THE
 8 OFFICE OF THE GENERAL COUNSEL AND THE OFFICE OF
 9 MONITORING AND ENFORCEMENT.—There are authorized
 10 to be appropriated to the Office of the United States
 11 Trade Representative for the appointment of additional
 12 staff in the Office of the General Counsel and the Office
 13 of Monitoring and Enforcement—

14 (1) \$2,000,000 for fiscal year 2005; and

15 (2) \$2,000,000 for fiscal year 2006.

16 (b) RESPONSIBILITIES OF ADDITIONAL STAFF.—The
 17 responsibilities of the additional staff appointed under
 18 subsection (a) shall include—

19 (1) investigating, prosecuting, and defending
 20 cases before the World Trade Organization and
 21 under trade agreements to which the United States
 22 is a party;

23 (2) administering United States trade laws, in-
 24 cluding title III of the Trade Act of 1974 (19 U.S.C.
 25 2411 et seq.) and other trade laws relating to for-

1 eign government barriers to United States goods and
2 services, including barriers involving intellectual
3 property rights, government procurement, and tele-
4 communications; and

5 (3) monitoring compliance with the Uruguay
6 Round Agreements (as defined in section 2 of the
7 Uruguay Round Agreements Act (19 U.S.C. 3501))
8 and other trade agreements, particularly by the Peo-
9 ple's Republic of China.

10 **SEC. 4. CHIEF ENFORCEMENT NEGOTIATOR.**

11 Section 141 of the Trade Act of 1974 (19 U.S.C.
12 2171) is amended—

13 (1) by amending subsection (b)(2) to read as
14 follows:

15 “(2) There shall be in the Office 3 Deputy United
16 States Trade Representatives, 1 Chief Agricultural Nego-
17 tiator, and 1 Chief Enforcement Negotiator. The 3 Deputy
18 United States Trade Representatives and the 2 Chief Ne-
19 gotiators shall be appointed by the President, by and with
20 the advice and consent of the Senate. As an exercise of
21 the rulemaking power of the Senate, any nomination of
22 a Deputy United States Trade Representative, the Chief
23 Agricultural Negotiator, or the Chief Enforcement Nego-
24 tiator submitted to the Senate for its advice and consent,
25 and referred to a committee, shall be referred to the Com-

1 mittee on Finance. Each Deputy United States Trade
 2 Representative, the Chief Agricultural Negotiator, and the
 3 Chief Enforcement Negotiator shall hold office at the
 4 pleasure of the President and shall have the rank of Am-
 5 bassador.”; and

6 (2) in subsection (c), by adding at the end the
 7 following new paragraph:

8 “(6) The principal function of the Chief Enforcement
 9 Negotiator shall be to conduct negotiations to ensure com-
 10 pliance with trade agreements relating to United States
 11 manufactured goods and services. The Chief Enforcement
 12 Negotiator shall recommend investigating and prosecuting
 13 cases before the World Trade Organization and under
 14 trade agreements to which the United States is a party.
 15 The Chief Enforcement Negotiator shall recommend ad-
 16 ministering United States trade laws relating to foreign
 17 government barriers to United States goods and services.
 18 The Chief Enforcement Negotiator shall perform such
 19 other functions as the United States Trade Representative
 20 may direct.”.

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